

FILED
MISSOULA, MT

2006 JUN 23 9 08 31

IN THE UNITED STATES DISTRICT COURT
PATRICK E. DUFFY

FOR THE DISTRICT OF MONTANA

DEPUTY CLERK

MISSOULA DIVISION

MICHAEL A. ELLENBURG,)	CV 06-61-M-DWM
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
ALLEN POWELL, DEBRA SULLIVAN,)	
LEE RAND, KIRBY CO. OF MONTANA))	
JULIE B. SCHWARTZ, U OF M)	
ASSOCIATION, AND)	
SANDRA GUNDERSON P.P.O,)	
ET. AL.)	
Defendant.)	
)	

On May 22, 2006, United States Magistrate Judge Leif B. Erickson entered a Findings and Recommendation in this matter. (Document 7). Pursuant to *Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998), Plaintiff is not entitled to object. The Findings and Recommendation is now reviewed and adopted in full.

Standing Order No. DWM-27 holds that "no prisoner may maintain more than two (2) civil actions *in forma pauperis* at one time unless the prisoner shows that he or she is under imminent danger of serious physical injury." Plaintiff has two *in forma pauperis* civil actions currently pending (See Civil Actions CV-04-01-H-CSO and CV-06-059-M-LBE) and fails to show he was in imminent danger of

serious physical injury in relation to this specific complaint. The alleged wrongful actions of Defendants in revoking Plaintiff's probation do not meet the requirements of Standing Order No. DWM-27.

Based on the foregoing reasons, this Court adopts Judge Erickson's Findings and Recommendation in full.

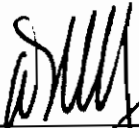
Accordingly, IT IS **HEREBY ORDERED**:

1. Plaintiff's Motion to Proceed *In Forma Pauperis* (Document 2) is **DENIED** pursuant to Standing Order No. DWM-27.

2. Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE** unless Plaintiff pays the full filing fee of \$350.00 within fourteen calendar days of the signing of this Order.

3. Plaintiff's Motion for Discovery is **DENIED AS MOOT**.

DATED this 23rd day of June, 2006.



Donald W. Molloy, Chief Judge
United States District Court
